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HOUSE BILL 65

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Pauline J. Ponce

AN ACT

**RELATING TO CRIMINAL SENTENCING; ADDING THIRD DEGREE AGGRAVATED
BATTERY AGAINST A HOUSEHOLD MEMBER TO THE LIST OF PREDICATE
OFFENSES SET FORTH IN THE STATUTE REGARDING COMMISSION OF THREE
VIOLENT FELONY OFFENSES; AMENDING A SECTION OF THE NMSA 1978.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 31-18-23 NMSA 1978 (being Laws 1994,
Chapter 24, Section 2, as amended) is amended to read:**

**"31-18-23. THREE VIOLENT FELONY CONVICTIONS--MANDATORY
LIFE IMPRISONMENT--EXCEPTION. --**

**A. When a defendant is convicted of a third violent
felony, and each violent felony conviction is part of a
separate transaction or occurrence, and at least the third
violent felony conviction is in New Mexico, the defendant
shall, in addition to the sentence imposed for the third**

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1 violent conviction when that sentence does not result in death,
2 be punished by a sentence of life imprisonment. The life
3 imprisonment sentence shall be subject to parole pursuant to
4 the provisions of Section 31-21-10 NMSA 1978.

5 B. The sentence of life imprisonment shall be
6 imposed after a sentencing hearing, separate from the trial or
7 guilty plea proceeding resulting in the third violent felony
8 conviction, pursuant to the provisions of Section 31-18-24 NMSA
9 1978.

10 C. For the purpose of this section, a violent
11 felony conviction incurred by a defendant before he reaches the
12 age of eighteen shall not count as a violent felony conviction.

13 D. When a defendant has a felony conviction from
14 another state, the felony conviction shall be considered a
15 violent felony for the purposes of the Criminal Sentencing Act
16 if that crime would be considered a violent felony in New
17 Mexico.

18 E. As used in the Criminal Sentencing Act:

19 (1) "great bodily harm" means an injury to the
20 person that creates a high probability of death or that causes
21 serious disfigurement or that results in permanent loss or
22 impairment of the function of any member or organ of the body;
23 and

24 (2) "violent felony" means:

25 (a) murder in the first or second

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1 degree, as provided in Section 30-2-1 NMSA 1978;

2 (b) shooting at or from a motor vehicle
3 resulting in great bodily harm, as provided in Subsection B of
4 Section 30-3-8 NMSA 1978;

5 (c) third degree aggravated battery
6 against a household member, as provided in Section 30-3-16 NMSA
7 1978;

8 [~~e~~] (d) kidnapping resulting in great
9 bodily harm inflicted upon the victim by his captor, as
10 provided in Subsection B of Section 30-4-1 NMSA 1978; [~~and~~

11 ~~d~~] (e) criminal sexual penetration, as
12 provided in Subsection C or Paragraph (5) or (6) of Subsection
13 D of Section 30-9-11 NMSA 1978; and

14 [~~e~~] (f) robbery while armed with a
15 deadly weapon resulting in great bodily harm, as provided in
16 Section 30-16-2 NMSA 1978 and Subsection A of Section 30-1-12
17 NMSA 1978. "

18 Section 2. EFFECTIVE DATE. --The effective date of the
19 provisions of this act is July 1, 2004.